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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,916	09/11/2003	Thomas A. Rinehart	9409-2	8347

7590 06/16/2006
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EXAMINER

MCPHERSON, JOHN A

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/661,916	Applicant(s) RINEHART ET AL.	
	Examiner John A. McPherson	Art Unit 1756	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/04, 12/04, 1/05, 2/05, 4/05 & 6/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 41-75 in the reply filed on 3/27/06 is acknowledged.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 41-75 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 48-63 of copending Application No. 10/661,917. Although the conflicting claims are not identical, they are not patentably distinct from each other. Specifically, claim 41 of the present application completely encompasses (i.e. is anticipated by) claims 55-57 of the

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copending application. Furthermore, the additional limitations set forth in the dependent claims of the present application, such as a the system additionally comprising a developing station (e.g. claim 61) are also claimed in the copending application (e.g. see claim 62).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 66 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 66 is indefinite because it depends from canceled claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41-75 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,347,375 to Saito et al. [reference number 2 of the Information Disclosure Statement

filed 1/28/05] (Saito). Saito discloses a computer-generated hologram recording apparatus comprising a rotary drum structure (i.e. cylindrical platform); a movable recording head section comprising three semiconductor lasers; and a control circuit which is connected to a drum drive motor and a driving circuit for driving the head moving motor. See column 12, line 64 to column 13, line 66; column 14, lines 36-66; and Figure 11. Furthermore, Saito discloses that a hologram recorded by the scan printer may be subjected to post-processing such as development in a processing section to create a holographic image on the recording medium, such as a photoresist. See column 13, line 67 to column 14, line 35.

It is the position of the Examiner that the control circuit of Saito is capable of moving the drum and the recording head in any desired relationship because it is taught that the control circuit controls the motions of the drum and the recording head, and that the specific relative motions set forth in claims 42-47, 50, 53-54, 56-59, 62, 67-68, 70, 72 and 75 are statements of intended use for the claimed controller. Additionally, it is the position of the Examiner that rotary drum structure of Saito is capable of holding any desired radiation sensitive layered material, and that the specific radiation sensitive layered materials set forth in claims 62-66 and 75 are those intended to be used with the claimed cylindrical platform (i.e. they are not part of the claimed system).

Furthermore, it is the position of the Examiner that the language "wherein the optical microstructures comprise microlenses" set forth in claims 60 and 73 describe the product intended to be produced (i.e. the intended use) of the presently claimed system. The microlenses are not part of the system.

5. Claims 41-60 and 62-73 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,045,980 to Edelkind et al. (Edelkind). Edelkind discloses an optical digital media recording and reproducing system comprising a cylinder having an optically thick layer responsive to a laser beam on its exterior surface; a laser beam; and a computer system (i.e. controller). Furthermore, Edelkind discloses that the system comprises a feedback-controlled fine focus system, and that the laser is controlled by an acousto-optical modulator. See the abstract; column 4, line 52 to column 5, line 7; column 6, line 57 to column 9, line 47; column 10, line 10-27; and Figures 3 and 4.


It is the position of the Examiner that the computer system of Edelkind is capable of moving the cylinder and the laser beam in any desired relationship because it is taught that the computer system controls the motions of the cylinder and the laser, and that the specific relative motions set forth in claims 42-47, 50, 53-54, 56-59, 62, 67-68, 70, 72 and 75 are statements of intended use for the claimed controller. Additionally, it is the position of the Examiner that cylinder of Edelkind is capable of holding any desired radiation sensitive layered material, and that the specific radiation sensitive layered materials set forth in claims 62-66 are those intended to be used with the claimed cylindrical platform (i.e. they are not part of the claimed system). Furthermore, it is the position of the Examiner that the language "wherein the optical microstructures comprise microlenses" set forth in claims 60 and 73 describe the product intended to be produced (i.e. the intended use) of the presently claimed system. The microlenses are not part of the system.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. McPherson whose telephone number is (571) 272-1386. The examiner can normally be reached on Monday through Friday, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John A. McPherson
Primary Examiner
Art Unit 1756

JAM
6/12/06